

# **WEST VIRGINIA LEGISLATURE**

## **2022 REGULAR SESSION**

### **Introduced**

## **House Bill 4071**

BY DELEGATES MAYNOR, STEELE, HONAKER, SMITH,  
TULLY, KESSINGER, B. WARD, FOSTER, ELLINGTON,  
KEATON, AND GEARHEART

[Introduced January 13, 2022; Referred to the  
Committee on Education then the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §18-8B-1, §18-8B-2, §18-8B-3, §18-8B-4, all relating to creating the Parent  
3 and Student Health Rights Act; providing definitions; providing that schools, educational  
4 institutions, and elected or appointed local officials may not mandate masks for school  
5 students or school employees, and may not mandate COVID-19 tests and quarantine  
6 under certain circumstances; and providing injunctive relief.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 8B. PARENT AND STUDENT HEALTH RIGHTS ACT.**

### **§18-8B-1. Short title.**

1 This article shall be known and may be cited as the Parent and Student Health Rights Act.

### **§18-8B-2. Definitions.**

1 (a) "Confirmed outbreak" in a school setting is defined as:

2 (1) Multiple COVID-19 cases comprising at least 10 percent of students, teachers, or staff,  
3 within a specified core group (e.g., classroom, extracurricular activity, sports team); or

4 (2) At least three cases within a specified core group (e.g., classroom, extracurricular  
5 activity, sports team).

6 (b) "COVID-19" or "coronavirus" means the novel coronavirus identified as SARS-CoV-2,  
7 the disease caused by the novel coronavirus SARS-CoV-2, or a virus mutating therefrom, and  
8 conditions associated with the disease.

9 (c) "Educational institution" means any school or facility under the control of a county board  
10 of education; a charter school; and the West Virginia Schools for the Deaf and the Blind.

11 (d) "Quarantine" means a period of physical separation recommended by the Centers for  
12 Disease Control and Prevention ("CDC") which should begin after a person comes into close  
13 contact with someone who has COVID-19.

### **§18-8B-3. Parent and student health rights.**

1 (a) Notwithstanding any other law to the contrary, and regardless of a confirmed outbreak,

2 no school, educational institution, or elected or appointed local official may impose a COVID-19  
3 mask or face covering requirement for any school student, grade K-12, or school employee.

4 (b) A parent of a student maintains the right to determine whether their child will wear a  
5 mask or face covering on school premises or during extracurricular activities.

6 (c) No school, educational institution, or elected or appointed local official may impose a  
7 mandatory COVID-19 testing requirement on any asymptomatic or pre-symptomatic student  
8 and/or school employee.

9 (d) No school, educational institution, or elected or appointed local official may require a  
10 student or school employee to quarantine or isolate unless a case of COVID-19 is confirmed by  
11 a positive test result.

12 (e) Any period of quarantine shall end after a negative test result for COVID-19 or after 5  
13 days of quarantine.

**§18-8B-4. Injunctive relief available.**

1 A parent of a student or a student who is 18 years of age or older may bring an action  
2 against the school or educational institution to obtain a declaratory judgment that an act or practice  
3 violates this section and to seek injunctive relief. A prevailing parent or student, as applicable,  
4 may be awarded reasonable attorney fees and court costs.

NOTE: The purpose of this bill is to create a Parent and Student Health Rights Act; providing definitions related to schools, students, and COVID-19; providing that schools, educational institutions, and elected or appointed local officials may not mandate masks for school students or school employees, and may not mandate COVID-19 testing or quarantining under certain circumstances; and providing for injunctive relief.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.